

The Circuit Court for Howard County
Fifth Judicial Circuit
Family Law Differentiated Case
Management Plan

Approved by the Court of Appeals of Maryland
January 29, 2007

Revisions Effective September 17, 2007

The Honorable Diane O. Leasure
Administrative Judge
The Circuit Court for Howard County
8360 Court Avenue
Ellicott City, MD 21043

The Circuit Court for Howard County Family Law Differentiated Case Management Plan

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The purpose of a Differentiated Case Management Plan is to provide effective case management, in compliance with Md. Rule 16-202, which should include a predictable course of action for all family law cases and the timely resolution of cases. In an effort to comply with case time standards, most family law cases should close within twelve months of filing and the remainder should close within eighteen months of filing. As part of that plan, family law cases will now follow a specific course of action.

These policies and procedures apply to the following types of cases:

- Absolute and limited divorce
- Adoption
- Alimony
- Annulment
- Child support*
- Contempt of an order for alimony, child support, custody, visitation and use and possession of a family home
- Custody/Visitation
- Post judgment modification of alimony, child support, custody, visitation and use and possession of a family home
- Use and possession of a family home

**Support matters initiated or defended by the Howard County Department of Social Services will follow a slightly different procedure. See page 4.*

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Attachments

Custody evaluation criteria
Civil and family law postponement policy
Application for non-mediation ADR services

FAMILY SERVICES PERSONNEL

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Court Social Worker.....	(410) 313-5959
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Family Law Coordinator.....	(410) 313-2225
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Judge Louis Becker.....	(410) 313-2083
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Judge Diane Leasure.....	(410) 313-2066
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DOMESTIC RELATIONS CASE MANAGEMENT:

CASE REVIEW

Cases are reviewed immediately after an answer is filed. Most contested domestic relation cases are set for a scheduling conference. The conference will be scheduled 30-45 days from the date an answer is filed. Scheduling conferences are not set when an unrepresented party lives out of state and/or a support or contempt matter is the only issue; these cases will be set directly for a hearing.

Uncontested cases are either set before a special master (divorce) or set directly for a hearing before a master (any other family law matter listed above). Upon service notification or answer, contempt cases will be set directly for a hearing or a scheduling conference (Md. Rule 16-206 and 9-207 (d)).

Support matters initiated or defended by the Department of Social Services will be set for a hearing upon written request. This includes paternity, establishment and contempt. These matters will not be set for a scheduling or settlement conference or for facilitation. The Master is, however, amenable to both conference calls and chambers conferences when appropriate. Postponement procedure is the same as that applicable to all other domestic relations cases.

SCHEDULING CONFERENCE ORDER AND PROCEDURE

The conferences will take place on Fridays in the court house before the family law coordinator. At the scheduling conference (Md. Rule 2-504.1), a scheduling order will be generated which may include:

1. Referrals to service providers (mediation, parenting classes, property ADR, etc.) (Rules 9-204, 9-205, 17-103).
2. Appointment of children's attorneys (if both parties consent).
3. Custody evaluation (if case appropriate and both parties consent) and the criteria for custody evaluations is satisfied.
4. Master's Hearing date (if appropriate 50-60 days from conference). Said hearing will be limited to 3 hours unless there is prior written permission from the administrative judge to extend. Counsel cannot agree to bypass pendente lite hearing.
5. Discovery deadlines (80-90 days from conference)¹.
6. Settlement conference date before retired Judges or Master (100-115 days

¹ Dates may be extended depending on the complexity of the case, however the settlement conference should not exceed 200 days from the scheduling conference.

from conference). Modifications are not set for a settlement conference.

Merits hearings will not be scheduled at the scheduling conference. This will ensure that only cases ready for trial will be scheduled, allowing cases to proceed on the original scheduled date.

All counsel and parties must be present at the scheduling conference, unless:

1. The party lives out of state, but is represented by counsel and is available by telephone.
2. Counsel notified the court and opposing counsel that party cannot appear and if opposing counsel agrees, the conference will go forward. If counsel wants the opportunity to facilitate, the conference will be re-set.
3. Counsel must attend scheduling conferences in person. Conferences will not be conducted by telephone absent extreme hardship for counsel to attend.

The Scheduling is signed by the administrative Judge.

SCHEDULING CONFERENCE

CASE COMPLEXITY

In addition to a scheduling order, determination of the complexity of the case (which determines deadlines) will be made at the scheduling conference. Criteria for complexity must be satisfied prior to extensions of deadlines.

Counsel will not determine what referrals and/or hearings are scheduled. All cases will follow a general course of action, with the ability to extend deadlines if case complexity requires such. All cases with *pendente lite* issues will be set for a Master's Hearing. Counsel cannot, even by agreement, elect to bypass a *pendente lite* hearing. Additionally, custody issues will not be bifurcated, unless specifically ordered by a Judge. Furthermore, all hearing dates will be scheduled at the conference regardless of whether grounds (at the time of the conference) are ripe for an absolute divorce. It will be the responsibility of counsel or the parties to ensure proper pleadings are subsequently filed.

SETTLEMENT CONFERENCES

Settlement conferences will take place before either a retired Judge or a Master. All discovery, as specifically ordered, shall be completed prior to the conference. Parties and/or counsel should be fully prepared to settle the case at this time. There is no cost for the conference and it will take place in the courthouse. The conference will not be on the record. However, if the case settles, an agreement can be placed on the record at that time. If the case

does not settle at the settlement conference, parties will be instructed to go to the case management office to get a merits trial date (60 days or less from the settlement conference, *not to exceed case time standards*).

SETTLEMENT OF THE CASE

If a case settles prior to any scheduled event, counsel should notify appropriate chambers of settlement. If a consent is received and case requires no hearing, the case will be removed from the docket. If an uncontested hearing is needed, testimony may be taken on the day of the scheduled contested hearing. As stated above, the court will require a fully executed consent order prior to removal from the docket; or in the alternative parties may appear and place the agreement on the record.

CHAMBERS CONFERENCES

There are certain situations in which a case needs court intervention. In appropriate circumstances the Masters are willing to handle issues in a informal manner. Counsel should contact the Master's office directly or the family law coordinator to determine if a chambers conference is necessary.

CONFERENCE CALLS

The Masters are amenable to conference calls with attorneys to clear up minor issues immediately before and after pendente lite or modification hearings. This can be a cost-effective and rapid way to resolve minor problems.

CHAMBERS CONFERENCES

The Masters are amenable to chambers conferences prior to a hearing to assist the parties in settlement negotiation or narrowing of issues, upon request. If the case is hopelessly contested, a chambers conference may only serve to waste time that could be spent on testimony and argument on the record. Be judicious in your requests.

STATUS CONFERENCES

In some circumstances the court may request a status conference. The purpose is usually to meet with both sides in an effort to get the case on track if it is not proceeding as desired. These are usually brief and procedural, and are always non-evidentiary.

Except for the above circumstances, an appropriate MOTION must be filed for any request for relief. Litigants and/or Counsel should send NOT send letters to chambers regarding existing or closed cases.

EXCEPTIONS PROCEDURE

In accordance with Md. Rule 9-208 (f), a party may file exceptions to a Master's recommendations within ten days after the recommendations are placed on the record or served. A transcript request must be filed with the exceptions, or a certification that no transcript is necessary to rule on the exceptions. The Court Reporter will give a price estimate within two days of the exceptions filing and payment must be made within ten days or exceptions will be deemed to not be timely filed. The transcript should be completed within 30 days of payment, therefore in time for any scheduled hearing. In an effort to expedite the process, Counsel may call the Court Reporter directly for a price estimate. Counsel may request a partial transcript.

The court may decide exceptions without a hearing unless a hearing is requested upon filing exceptions or by an opposing party within ten days after service of the exceptions. If a hearing is needed, assignment will set the matter within 60 days of filing. The exceptions hearing date will not postpone any other scheduled event in the case and all requirements in the scheduling order will remain in effect.

If Counsel needs to listen to a tape, they may contact the court reporter office directly.

STRIKING OF ATTORNEY'S APPEARANCE

Pursuant to Md. Rule 2-132, unless a client has another attorney of record, attorneys must file a motion to withdraw their appearance. The Rule also states in part that “the court may deny the motion if withdrawal of the appearance would cause undue delay, prejudice, or injustice.” Therefore, if there is any matter scheduled in the case within 30 days of a motion to withdraw, extenuating circumstances may have to exist in order for the court to grant the motion. Extenuating circumstances may include safety concerns or issues of perjury. Nonpayment of legal fees will not constitute extenuating circumstances.

EMERGENCY PROCEDURE

The Masters review all requests for emergency hearings with the exception of domestic violence *ex parte* relief. For emergency hearings, there must be service on the other side. Also, there must be an emergent situation (one that cannot safely wait for a regular hearing). Please title your request “Request” not “Motion.” For *ex parte* relief, there must be a certification that the other party or attorney was notified in advance that the request for *ex parte* relief would be made. See Md. Rule 1-351.

Procedure

1. Requirements
 - a. There must be a Complaint or Petition that has been filed *and served* on the other party.
 - b. There must be a pleading requesting the *ex parte* or emergency relief.
 - c. The pleading should be accompanied by an affidavit or documentation of the alleged emergency.
 - d. There must be a certification of notice to the opposing party/counsel as required by Maryland Rule 1-351.
 - e. The pleading should be accompanied by a proposed Order.
2. Procedure
 - a. Emergency/*ex parte* motion is filed with the Clerk of the court.
 - b. Clerk’s Office brings Motion and file to Masters’ office.
 - c. Either of the Masters will review the Motion and supporting documentation, and make a determination whether the matter qualifies for treatment as an emergency.
3. Possible outcomes
 - a. The Master may recommend that the Court grant immediate relief on the Ex Parte request, and that an immediate hearing follow to permit both parties to be heard on the issue.
 - b. The Master may recommend that the matter be set in for an expedited Master’s hearing on the emergency issues.
 - c. The Master may recommend that the emergency or *ex parte* relief be denied.
4. What constitutes an emergency?
 - a. Any risk of substantial, irrevocable harm that will likely occur unless the matter is considered immediately.
 - b. Any imminent threat to the health, welfare, and safety of a party or a party’s child.
 - c. Imminent removal of a child from the state without advance notice to other parent.
 - d. Generally, the following are NOT considered emergencies: non-payment of support or other financial obligations, school transfers, visitation disputes. These matters can be addressed in traditional hearings.

ALTERNATIVE DISPUTE RESOLUTION

MEDIATION AND PARENTING CLASSES

Mediation and parenting classes are mandatory in contested custody and visitation cases, unless there have been allegations of domestic violence. In such cases, only parenting classes will be ordered. Parties will be ordered to attend two, two hour mediation sessions with a court - approved and qualified mediator. Counsel does not have to attend custody/visitation mediation.

Property mediation may also be ordered at the time of the scheduling conference. Parties must agree to participate in this type of mediation. Counsel does not have to attend mediation, although the mediator may request that they do so. Parties will be ordered to attend two, two hour sessions with a court approved and qualified mediator.

Parties will be ordered to contact the mediator directly to schedule mediation. The mediation sessions should be completed within sixty days, unless as ordered, case complexity requires additional time. Failure to attend mediation may result in case delay and/or sanctions.

The parenting seminars are conducted by the National Family Resiliency Center (NRFC). The seminars are a tool designed to assist parents raising children living separate and apart. Parties may contact NFRC at (410) 740-9553 to register and attend the seminars. The seminars should be taken prior to mediation and also must be completed within sixty days.

Parties who live outside of Maryland may be required to attend a similar parenting class in a more convenient location.

The fee for custody and property mediation is \$150.00 per hour. The parenting seminar fee is \$100.00 per person. The Court has a fee waiver program for income eligible persons.

FACILITATION PROGRAM

The court operates a volunteer based facilitator program in an effort to assist parties to settle their case. There are two distinct ways in which a case may participate in this program. First, a facilitator will be available at the time of scheduling conferences. Parties must agree to facilitate and Counsel does not have to be present for facilitation. If however, counsel elects to stay and an agreement is reached, the court will make every effort to have that agreement placed on the record that day.

Facilitation may also be ordered in a case. If facilitation is ordered, parties cannot elect not to participate and if represented, counsel is expected to be present. As stated above, if an agreement is reached, the court will make every effort to have that agreement placed on

the record.

Facilitation, unless otherwise agreed to, will take place in the Court House. There is no cost for this program.

If you would like to volunteer as a facilitator are in accordance with Maryland Rule 17 - 105, Howard County facilitators must:

1. Complete a facilitator training or have at least five years experience in the active practice of law.
2. Have specialized experience in dealing with the issues in dispute.
3. Complete a facilitator application.

Therefore, only family law facilitations without financial issues will be assigned to a facilitator whose profession is other than that of an attorney.

Court facilitators are volunteer positions, however, attorneys may include this time towards annual pro bono hours. Additionally, facilitators who volunteer on Fridays and who are also court approved mediators will receive the unopposed court ordered meditations for that day. If you are interested in participating in this program or observing a facilitation before volunteering your time, please contact Jennifer Bowman (410) 313-2403 or Hella Stevenson (410) 313-2403. Thank you very much for considering this project. **Attached is the facilitator application form.**

CUSTODY EVALUATIONS

Requests for Custody Evaluations

Counsel can either file a motion for a custody evaluation or make a verbal request at the scheduling conference. If both parties consent to the evaluation and the criteria for an evaluation is satisfied, an order for a child custody evaluation to be conducted by the Court's Social Worker may be generated after the scheduling conference. The Court may desire and order a child custody evaluation to be performed by the Court Social Worker at any time. Where parties have the financial ability to pay for a private evaluation, they may be required to do so. In most instances, the parties may need to choose between a custody evaluation and the appointment of an attorney for the minor children to avoid duplication of efforts.

Custody Evaluations

Court conducted child custody evaluations are done by the Court's Social Worker. Generally for a two parent custody evaluation, the court social worker has a joint interview (if parents are comfortable meeting together, desire joint custody, and there are no allegations of domestic violence), an individual interview with each parent in the office (at the court), a home visit at each parent's home with the children and members of the household. There are professional collateral contacts for parents and children. The children's therapists are not contacted regarding therapy issues unless there is a child's privilege attorney appointed by the court. There are meetings with the children at each parent's home. Sometimes there are meetings with the children at school, day care, or the court office. There may be a request for a substance abuse/alcohol evaluation or other outside evaluations for parents.

In addition to meetings and observations, the parents are required to submit written materials, and when appropriate, the court file is reviewed and the Department of Social Services is contacted for a Child Protective Service Clearance Check. There may be other steps, such as an interview with grandparents or a visit to a home a parent is planning to move to in the near future. The interviews and structure of the evaluation are determined by the evaluator based on the family situation.

A written report is generated out of the evaluation process. The Court usually has a time stipulation in which the report is to be submitted. A copy of the report is made available to attorneys. Most evaluations end with the report and recommendations for custody and visitation.

It is hoped that the report may result in the parents considering the children's needs and come to an agreement for a parenting plan (custody and visitation). If not, and the parents go to court, the court social may, by issue of a subpoena served with proper service, testify in court.

ADOPTION PROCEDURE

Adoption Petitions are governed by the provisions of Family Law Article 5-3A-01 et. seq. and 5-3B-01 et. seq. and shall be filed in accordance with the provisions of Rule 9-103. The following is the case flow procedure in Howard County. For further instructions, please reference the Adoption Memorandum.

1. Petition is filed. Upon receipt, Clerk's Office sends copy of "Adoption Memorandum," DHR form, and Certificate of Adoption from to filing party or counsel.
2. If Petition is accompanied by signed consent(s) from all parties who are giving up rights to the child, no show cause is necessary.
3. If any parent has not provided a written consent to the adoption, the adopting party must file a request for a show cause order. The adopting party must serve the show cause on all parents who have not consented within 90 days of its issuance. Proof of service must be filed with the court, as with any case.
4. The natural parent has 30 days from the date of service of the show cause to file a notice of objection to the adoption, if the parent lives in Maryland. If the parent is served out of state, he or she has 60 days from the date of service to file a notice of objection. For a parent served outside the USA, the time to file notice of objection is 90 days from the date of service.
5. The adopting party should file a Motion requesting either an Order for an Adoption Home Study or a Waiver of Home Study. Every contested adoption **must** have a home study investigation. Investigations take 90-120 days from the date of the order.
6. Once the investigation is complete (or the waiver has been granted) and the necessary consents have been filed (or the time for filing of objection to the show cause order has passed), the party desiring the adoption should request a hearing.
7. Upon receipt of a hearing request, the uncontested adoption file will be reviewed by the master. If the file is complete, the matter will be set in for a 15 minute hearing. If the file is not complete, a note will be sent to the prospective adoptive party advising of what needs to be filed.
8. Upon receipt of the missing information, the case will be immediately scheduled for hearing before the master.
9. Contested adoption cases will follow this procedure, but must be scheduled before a judge. It may be desirable to hold a pre-hearing conference to determine appropriate length of time for the hearing.

CUSTODY EVALUATION CRITERIA

1. Allegations of the children's safety with a parent. (Allegations of child abuse and neglect should be reported to Howard County Department of Social Services.)
2. Current domestic violence between the parents. (police called at exchanges)
3. Allegations made a parent is not able to provide care and supervision to the children. (mental health concerns)
4. Child/children have special needs and the parents need to have specific skills or resources to care for the children.
 - _____ Physical health condition
 - _____ Mental health condition
 - _____ Privilege attorney for child's therapy
 - _____ Education or learning problems
 - _____ Behavior or conduct problems
5. The children need a voice and there will be no child's attorney. This may include a child's alienation from a parent or a reunification situation.
6. Allegations have been made by a parent that a home environment is not suitable for a child.
7. A parent is planning to relocate.
8. A modification requested because of the custodial parent's inability to provide care and supervision to the child because of a change in the needs of the child or a change in the parent's ability to provide care and supervision to a child.
9. There is high conflict between the parent and the children are involved in the dispute between the parents.
10. The parents' conflict is having an impact on the child's ability to function with day-to-day activities, school, friends, and sense of well-being.

Court custody evaluations should not be made for the following reasons:

1. Alcohol or substance abuse evaluations for the parents need to be made.
2. A court appointed psychologist is conducting an evaluation.
3. The parents are going to mediation with the belief that they can resolve the custody/access issues.
4. An update of a previous custody evaluation is needed.
(An evaluation with another evaluator needs to be secured.)
5. There is conflict between the parents but the children are not involved in the conflict and are doing well.
6. The child has a mental health therapist or child's best interest attorney.
7. The conflict is about child support.

Patricia A. Bright, LCSW-C
6/23/06